

PA-IDC

QUERY CONTROL FORM		RTIS USE ONLY	
Application No. <u>09880199</u>	Prepared by <u>CA</u>	Tracking Number <u>06025396</u>	
Examiner-GAU <u>Hendricks 1761</u>	Date <u>10/27/04</u>	Week Date <u>10/18/04</u>	
	No. of queries <u>1</u>	<u>IPW (PUTY)</u>	

### JACKET

a. Serial No.	f. Foreign Priority	k. Print Claim(s)	p. PTO-1449
b. Applicant(s)	g. Disclaimer	l. Print Fig.	q. PTOL-85b
c. Continuing Data	h. Microfiche Appendix	m. Searched Column	r. Abstract
d. PCT	i. Title	n. PTO-270/328	s. Sheets/Figs
e. Domestic Priority	j. Claims Allowed	o. PTO-892	t. Other

### SPECIFICATION

- a. Page Missing
- b. Text Continuity
- c. Holes through Data
- d. Other Missing Text
- e. Illegible Text
- f. Duplicate Text
- g. Brief Description
- h. Sequence Listing
- i. Appendix
- j. Amendments
- k. Other

### MESSAGE

Improper Dependency: Claim 12 (now  
claim 4) depends upon cancelled Claim 8.

Please Resolve.

### CLAIMS

- a. Claim(s) Missing
- ☒ b. Improper Dependency
- c. Duplicate Numbers
- d. Incorrect Numbering
- e. Index Disagrees
- f. Punctuation
- g. Amendments
- h. Bracketing
- i. Missing Text
- j. Duplicate Text
- k. Other

Thank You  
 initials CA

### RESPONSE

initials

~~9. (Previously presented) A food product having a pH of 3.8 or less, said food product comprising probiotic Lactobacillus bacteria which have been rendered non-viable and said food product being substantially non-fermented by said Lactobacillus bacteria.~~

10-11 (Canceled)

4 ~~12. (Previously presented) Method according to claim 9, wherein the ratio of non-viable to viable bacteria is more than 5:1.~~

5 ~~13. (Previously presented) Method according to claim 12, wherein the ratio of non-viable to viable bacteria is more than 10:1.~~

6 ~~14. (Currently amended) A method to produce a food product comprising health-active non-viable- probiotic Lactobacillus bacteria which have been rendered non-viable, wherein the method comprises the step of adding a mixture of viable and non-viable Lactobacillus into the food product followed by inactivation of the viable probiotic Lactobacillus before substantial fermentation of the food product can take place, and wherein no substantial fermentation of the food product by said Lactobacillus bacteria will take place, the method including a heat treatment step for preparation and preservation of the food product.~~

~~15. (previously presented) Food product according to claim 9 wherein the amount of non-viable lactobacillus bacteria in the food product is from about  $10^6$  to  $10^{11}$  per serving or per 100g of product.~~

16-18 (Canceled)